

**REMARKS**

**A. The Section 103 Rejections**

Claims 3-5, 19, and 30-37 are rejected under 35 U.S.C. §103(a) based on the combination of U.S. Patent No. 6,204,844 to Fumarolo et al (“Fumarolo”) and U.S. Patent No. 6,246,376 to Bork et al (“Bork”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Of the rejected claims, claims 19 and 32 are independent claims. It is to these claims that Applicants now turn, it being understood that the remarks which follow apply equally to the remaining dependent claims.

Each of the claims of the present invention includes the features of a method or device for selecting a device, from among nearby devices that are not grouped according to GPS co-ordinates, to communicate with, comprising the steps of: transmitting a Bluetooth signal; detecting a plurality of Bluetooth signals from the nearby devices, each signal containing GPS coordinates of at least one nearby device; and selecting one of the nearby devices associated with one of the detected signals to communicate with based on the received GPS coordinates.

As the Applicants understand the §103 rejections, the Examiner is relying on Fumarolo for all the features of the claims except the disclosure of a Bluetooth signal. The Examiner relies on Bork for the disclosure of a Bluetooth signal.

Applicants note that Fumarolo does not disclose features (a)-(c) set forth above. Instead, Fumarolo explicitly discloses the grouping of devices into “talk groups”. More particularly, Fumarolo appears to select a group of devices or an individual device that have/has been grouped according to GPS co-ordinates. This is inopposite to the claimed invention.

**B.) The Combination of Fumarolo and Bork is Improper**

One of ordinary skill in the art would realize that the particular Bluetooth based system in Bork could not be used in the system of Fumarolo because such a Bluetooth system would most likely not have the distance or range needed to carry out the principle of operation of Fumarolo.

Bluetooth systems provide short range communications (see Bork, column 1, lines 44-47) of approximately 100 meters (Bork, column 1, lines 51-52).

In contrast, the principle of operation in Fumarolo requires a signal to travel distances outside the range of a Bluetooth signal, as in the case where communication units belonging to a number of different agencies (i.e. fire department, police department, ambulance) must be grouped together, especially when the individuals operating such units are enroute to an incident (e.g. accident, fire).

In the Board of Patent Appeals & Interferences decision dated August 24, 2009, in supporting the Examiner's position, the Board states that both "Fumarolo and Bork disclose utilizing group communications in a limited geographic area such as several streets or a shopping mall" (Decision at page 7). However, it is well known that Bluetooth signals do not propagate over several streets. Further, the claims are directed at specific Bluetooth signals not generalized signals within a limited geographic distance or within a shopping mall.

Accordingly, Appellants respectfully submit that the combination of Fumarolo and Bork is improper for these reasons.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 3-5, 19, and 30-37.

Should there be any outstanding matters that need to be resolved in the present application the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

**CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.**

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